

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

Applicant's or agent's file reference 71393	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP 03/04202	International filing date (<i>day/month/year</i>) 23.04.2003	Priority date (<i>day/month/year</i>) 23.04.2003
International Patent Classification (IPC) or both national classification and IPC C01B31/00		
Applicant FOC FRANKENBURG OIL COMPANY EST et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:

I ☒ Basis of the opinion

II ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability



IV ☒ Lack of unity of invention

V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand 15.11.2004	Date of completion of this report 28.06.2005
Name and mailing address of the international preliminary examining authority: <div style="margin-left: 20px;">  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 </div>	Authorized Officer Arnotte, E Telephone No. +49 89 2399-8573 <div style="text-align: right;">  </div>

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EXAMINATION REPORT**

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I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17))*):

Description, Pages

1-22 as originally filed

Claims, Numbers

1-6 as originally filed

Drawings, Sheets

1-5 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

IV. Lack of unity of invention

1. In response to the invitation to restrict or pay additional fees, the applicant has:

- ☐ restricted the claims.
☐ paid additional fees.
☐ paid additional fees under protest.
☐ neither restricted nor paid additional fees.

2. ☒ This Authority found that the requirement of unity of invention is not complied with and chose, according to Rule 68.1, not to invite the applicant to restrict or pay additional fees.

3. This Authority considers that the requirement of unity of invention in accordance with Rules 13.1, 13.2 and 13.3 is

- ☐ complied with.
☒ not complied with for the following reasons:

see separate sheet

4. Consequently, the following parts of the international application were the subject of international preliminary examination in establishing this report:

- ☒ all parts.
☐ the parts relating to claims Nos. .

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-6
Inventive step (IS)	Yes: Claims	
	No: Claims	1-6
Industrial applicability (IA)	Yes: Claims	
	No: Claims	1-6

2. Citations and explanations

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see separate sheet

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

Reference is made to the following document/s/:

D1: DE100 24 312

D2: US 5 614 459

D3: US 5 965 483

D4:US 4 439 349

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-4 is not new in the sense of Article 33(2) PCT.

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 5-6 does not involve an inventive step in the sense of Article 33(3) PCT.

Clarity of claim 1:

The expression "elevated" temperature" is vague in the sense that it does not have a clear technical meaning.

Therefore, claim 1 lacks clarity

Unity:

Claim 1 relates to a method of enlarging micropores of a microporous carbon material; claim 5 relates to a microporous carbon material having pores with specific sizes.

The material of claim 5 does not need to be the one obtained by the method of claim 1, hence, claim 1 and 5 are only linked by the fact that they both relate to microporous carbon materials. These materials being known per se, claim 1 and 5 lack a novel and inventive link and consequently lack unity.

Unity can be achieved by introducing in claim 5 a reference to claim 1.

Novelty

It is the opinion of this Authority that D1 (DE100 24 312), anticipates the process of present claim 1 : see D1 the whole document, more particularly, col1 lines 35-68, col 2

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lines 21-30,35-49,60-61, col 3 lines 3-14, 32-50, 62 ff, col 4 lines 52-61 and **even more particularly col5 lines 53-61 and col 6 lines 36-49** (where the two process steps are disclosed)

Hence, Claims 1-4 lack novelty over D1

D2 (US5 614 459) also appears to be a relevant document (see D2 col 2 lines 5-30, 40-56, col 3 and 4, claims 1,6; as well as D3 and D4.